

7-1-103. Definitions.

As used in this title:

(1) (a) "Bank" means a person authorized under the laws of this state, another state, or the United States to accept deposits from the public.

(b) "Bank" does not include:

- (i) a federal savings and loan association or federal savings bank;
- (ii) an industrial bank subject to Chapter 8, Industrial Banks;
- (iii) a federally chartered credit union; or
- (iv) a credit union subject to Chapter 9, Utah Credit Union Act.

(2) "Banking business" means the offering of deposit accounts to the public and the conduct of such other business activities as may be authorized by this title.

(3) (a) "Branch" means a place of business of a financial institution, other than its main office, at which deposits are received and paid.

(b) "Branch" does not include:

- (i) an automated teller machine, as defined in Section 7-16a-102;
- (ii) a point-of-sale terminal, as defined in Section 7-16a-102; or
- (iii) a loan production office under Section 7-1-715.

(4) "Commissioner" means the Commissioner of Financial Institutions.

(5) "Control" means the power, directly or indirectly, to:

(a) direct or exercise a controlling influence over:

- (i) the management or policies of a financial institution; or
- (ii) the election of a majority of the directors or trustees of an institution;

(b) vote 20% or more of any class of voting securities of a financial institution by an individual; or

(c) vote more than 10% of any class of voting securities of a financial institution by a person other than an individual.

(6) "Credit union" means a cooperative, nonprofit association incorporated under:

- (a) Chapter 9, Utah Credit Union Act; or
- (b) 12 U.S.C. Sec. 1751 et seq., Federal Credit Union Act, as amended.

(7) "Department" means the Department of Financial Institutions.

(8) "Depository institution" means a bank, savings and loan association, savings bank, industrial bank, credit union, or other institution that:

(a) holds or receives deposits, savings, or share accounts;

(b) issues certificates of deposit; or

(c) provides to its customers other depository accounts that are subject to withdrawal by checks, drafts, or other instruments or by electronic means to effect third party payments.

(9) (a) "Depository institution holding company" means:

(i) a person other than an individual that:

(A) has control over any depository institution; or

(B) becomes a holding company of a depository institution under Section 7-1-703; or

(ii) a person other than an individual that the commissioner finds, after considering the specific circumstances, is exercising or is capable of exercising a controlling influence over a depository institution by means other than those specifically

described in this section.

(b) Except as provided in Section 7-1-703, a person is not a depository institution holding company solely because it owns or controls shares acquired in securing or collecting a debt previously contracted in good faith.

(10) "Financial institution" means any institution subject to the jurisdiction of the department because of this title.

(11) (a) "Financial institution holding company" means a person, other than an individual that has control over any financial institution or any person that becomes a financial institution holding company under this chapter, including an out-of-state or foreign depository institution holding company.

(b) Ownership of a service corporation or service organization by a depository institution does not make that institution a financial institution holding company.

(c) A person holding 10% or less of the voting securities of a financial institution is rebuttably presumed not to have control of the institution.

(d) A trust company is not a holding company solely because it owns or holds 20% or more of the voting securities of a financial institution in a fiduciary capacity, unless the trust company exercises a controlling influence over the management or policies of the financial institution.

(12) "Foreign depository institution" means a depository institution chartered or authorized to transact business by a foreign government.

(13) "Foreign depository institution holding company" means the holding company of a foreign depository institution.

(14) "Home state" means:

(a) for a state chartered depository institution, the state that charters the institution;

(b) for a federally chartered depository institution, the state where the institution's main office is located; and

(c) for a depository institution holding company, the state in which the total deposits of all depository institution subsidiaries are the largest.

(15) "Host state" means:

(a) for a depository institution, a state, other than the institution's home state, where the institution maintains or seeks to establish a branch; and

(b) for a depository institution holding company, a state, other than the depository institution holding company's home state, where the depository institution holding company controls or seeks to control a depository institution subsidiary.

(16) "Industrial bank" means a corporation or limited liability company conducting the business of an industrial bank under Chapter 8, Industrial Banks.

(17) "Industrial loan company" is as defined in Section 7-8-21.

(18) "Insolvent" means the status of a financial institution that is unable to meet its obligations as they mature.

(19) "Institution" means:

(a) a corporation;

(b) a limited liability company;

(c) a partnership;

(d) a trust;

(e) an association;

- (f) a joint venture;
- (g) a pool;
- (h) a syndicate;
- (i) an unincorporated organization; or
- (j) any form of business entity.

(20) "Institution subject to the jurisdiction of the department" means an institution or other person described in Section 7-1-501.

(21) "Liquidation" means the act or process of winding up the affairs of an institution subject to the jurisdiction of the department by realizing upon assets, paying liabilities, and appropriating profit or loss, as provided in Chapter 2, Possession of Depository Institution by Commissioner, and Chapter 19, Acquisition of Failing Depository Institutions or Holding Companies.

(22) "Liquidator" means a person, agency, or instrumentality of this state or the United States appointed to conduct a liquidation.

(23) (a) "Money services business" includes:

- (i) a check casher;
- (ii) a deferred deposit lender;
- (iii) an issuer or seller of traveler's checks or money orders; and
- (iv) a money transmitter.

(b) "Money services business" does not include:

- (i) a bank;
- (ii) a person registered with, and functionally regulated or examined by the Securities Exchange Commission or the Commodity Futures Trading Commission, or a foreign financial agency that engages in financial activities that, if conducted in the United States, would require the foreign financial agency to be registered with the Securities Exchange Commission or the Commodity Futures Trading Commission; or
- (iii) an individual who engages in an activity described in Subsection (23)(a) on an infrequent basis and not for gain or profit.

(24) "Negotiable order of withdrawal" means a draft drawn on a NOW account.

(25) (a) "NOW account" means a savings account from which the owner may make withdrawals by negotiable or transferable instruments for the purpose of making transfers to third parties.

(b) A "NOW account" is not a demand deposit.

(c) Neither the owner of a NOW account nor any third party holder of an instrument requesting withdrawal from the account has a legal right to make withdrawal on demand.

(26) "Out-of-state" means, in reference to a depository institution or depository institution holding company, an institution or company whose home state is not Utah.

(27) "Person" means:

- (a) an individual;
- (b) a corporation;
- (c) a limited liability company;
- (d) a partnership;
- (e) a trust;
- (f) an association;
- (g) a joint venture;

- (h) a pool;
- (i) a syndicate;
- (j) a sole proprietorship;
- (k) an unincorporated organization; or
- (l) any form of business entity.

(28) "Receiver" means a person, agency, or instrumentality of this state or the United States appointed to administer and manage an institution subject to the jurisdiction of the department in receivership, as provided in Chapter 2, Possession of Depository Institution by Commissioner, and Chapter 19, Acquisition of Failing Depository Institutions or Holding Companies.

(29) "Receivership" means the administration and management of the affairs of an institution subject to the jurisdiction of the department to conserve, preserve, and properly dispose of the assets, liabilities, and revenues of an institution in possession, as provided in Chapter 2, Possession of Depository Institution by Commissioner, and Chapter 19, Acquisition of Failing Depository Institutions or Holding Companies.

(30) "Savings account" means any deposit or other account at a depository institution that is not a transaction account.

(31) "Savings and loan association" means:

- (a) a federal savings and loan association; and
- (b) an out-of-state savings and loan association.

(32) "Service corporation" or "service organization" means a corporation or other business entity owned or controlled by one or more financial institutions that is engaged or proposes to engage in business activities related to the business of financial institutions.

(33) "State" means, unless the context demands otherwise:

- (a) a state;
- (b) the District of Columbia; or
- (c) the territories of the United States.

(34) "Subsidiary" means a business entity under the control of an institution.

(35) (a) "Transaction account" means a deposit, account, or other contractual arrangement in which a depositor, account holder, or other customer is permitted, directly or indirectly, to make withdrawals by:

- (i) check or other negotiable or transferable instrument;
- (ii) payment order of withdrawal;
- (iii) telephone transfer;
- (iv) other electronic means; or
- (v) any other means or device for the purpose of making payments or transfers to third persons.

(b) "Transaction account" includes:

- (i) demand deposits;
- (ii) NOW accounts;
- (iii) savings deposits subject to automatic transfers; and
- (iv) share draft accounts.

(36) "Trust company" means a person authorized to conduct a trust business, as provided in Chapter 5, Trust Business.

(37) "Utah depository institution" means a depository institution whose home

state is Utah.

(38) "Utah depository institution holding company" means a depository institution holding company whose home state is Utah.

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